

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 062703

ORIGIN PM-04

INFO OCT-01 EUR-12 ISO-00 L-03 CIAE-00 INR-07 ACDA-07

NSAE-00 PA-01 SS-15 PRS-01 SP-02 USIA-06 TRSE-00

OES-06 EPA-01 CEQ-01 /067 R

DRAFTED BY PM/ISO:JWKIMBALL:OASD/ISA/FMRA: TKEENAN:ML

APPROVED BY PM/ISO - GTCHURCHILL

EUR/RPM - EREHFELD(INDRAFT)

EUR/NE - EDJEREDJIAN (IN DRAFT)

L/EUR - MR. GANTZ (IN DRAFT)

L/PM - T. BOREK (IN DRAFT)

-----220800Z 033880 /12

R 212317Z MAR 77

FM SECSTATE WASHDC

TO AMEMBASSY THE HAGUE

USMISSION NATO

INFO AMEMBASSY LONDON

SECDEF

USEUCOM

USNMR SHAPE

LIMITED OFFICIAL USE STATE 062703

E.O. 11652: N/A

TAGS: MARR, NATO, NL

SUBJECT: NETHERLANDS WATER POLLUTION TAXES ON US FORCES

1. DEPARTMENT HAS JUST RECEIVED COPY OF LETTER DATED 16 FEBRUARY 1977, FROM AIR MARSHALL SIR PETER LE CHEMINANT, ACTING CINCAFCENT, TO GENERAL BROWN, CHAIRMAN JCS. IN THIS LETTER, QUOTED BELOW, THE ACTING CINCAFCENT REFERS TO A WATER POLLUTION TAX LAW INTRODUCED IN THE NETHERLANDS IN 1973, WHICH IS APPLICABLE TO NON-DUTCH NATO PERSONNEL, AND LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 062703

A QUOTE RECENT UNQUOTE LOCAL COURT ACTION BY THE UNITED KINGDOM, IN WHICH THE ADMINISTRATIVE COURT AT MAASTRICHT RULED THAT THE WATER POLLUTION TAX MUST BE PAID BY ALL PERSONNEL RESIDING IN THE NETHERLANDS.

2. ACTING CINCAFCENT ASKS FOR CONCERTED ACTION BY THE NATIONAL AUTHORITIES IN ORDER TO RESOLVE THEMATTER AS

QUICKLY AS POSSIBLE AND TO AVOID THE LONG TERM ADVERSE EFFECTS OF INCREASED COSTS ON INDIVIDUAL DEFENSE BUDGETS.

3. WE NOTE THAT ANNUAL EUCOM TAX REPORT OF 28 JANUARY 1977, SIGNED BY EUCOM LEGAL ADVISOR, MAKES NO MENTION OF WATER POLLUTION TAXES, BUT THAT ACCORDING TO AFCENT LETTER MATTER

IS BEING CONSIDERED BY NATO MILITARY BUDGET COMMITTEE.

4. TO HELP DETERMINE WHETHER FURTHER US GOVERNMENT ACTION IS NECESSARY, WE WOULD APPRECIATE ANY INFORMATION AVAILABLE TO ADDRESSEES ON NATURE OF THIS TAX, AND ITS EFFECT, IF ANY, ON US OR NATO MILITARY INSTALLATIONS OR INDIVIDUAL MEMBERS OF THE US FORCES AND THE CIVILIAN COMPONENT STATIONED IN THE NETHERLANDS. AMONG OTHER THINGS WE WOULD LIKE TO KNOW WHETHER TAX IS BASED ON RESIDENCE OR DOMICILE, WHETHER TAX AFFECTS US GOVERNMENT EXPENDITURES FOR THE COMMON DEFENSE AND WHETHER THE TAX IS FOR SERVICES RENDERED OR MERELY GENERAL REVENUE. IF TAX DOES EFFECT US COMMON DEFENSE EXPENDITURES OR ITS PERSONNEL, WE WOULD LIKE ADDRESSEES' RECOMMENDATION ON BEST WAY TO PROCEED IN ORDER TO OBTAIN RELIEF. LASTLY, WE WOULD APPRECIATE THE TEXT OF THE LAW IN ENGLISH, IF AVAILABLE.

5. FOR USNATO: WOULD APPRECIATE STATUS REPORT ON MBC CONSIDERATION.

6. FOLLOWING IS TEXT OF LETTER TO GENERAL BROWN FROM ACTING CINCAFCENT.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 062703

QUOTE IN 1974, THE NETHERLANDS GOVERNMENT INTRODUCED A WATER POLLUTION TAX TO BE PAID BY USERS OF ANY DWELLING, THE WASTE PRODUCT OF WHICH IS DISCHARGED INTO ANY DRAIN OR SURFACE WATER. THE LEVY OF SUCH A TAX AGAINST NON-DUTCH NATO PERSONNEL HAS BEEN SEPARATELY CONTESTED UNSUCCESSFULLY BY SOME NATIONAL AUTHORITIES WHILE OTHERS HAVE INSTRUCTED THEIR PERSONNEL TO PAY THIS TAX QUOTE UNDER PROTEST UNQUOTE, RESERVING THE RIGHT TO RECLAIM PAYMENT WHEN A FINAL DECISION IN THIS MATTER IS OBTAINED.

IN A RECENT LOCAL COURT ACTION BY THE UNITED KINGDOM, REPRESENTED BY THE DEFENCE LANDS AGENT ACTING COLLECTIVELY ON BEHALF OF ALL BRITISH PERSONNEL, THE ADMINISTRATIVE COURT AT MAASTRICHT RULED THAT THIS WATER POLLUTION TAX MUST BE PAID BY ALL PERSONNEL RESIDING IN THE NETHERLANDS. INHERENT IN THIS DECISION IS IPSO FACTO RECOGNITION THAT THIS LEVY IS INDEED A TAX BASED ON RESIDENCE OR DOMICILE. AS SUCH, IT CLEARLY CONTRAVENES THE INTENT AND CONTENT OF

ARTICLE X OF THE STATUS OF FORCES AGREEMENT (REFERENCE A.).
ADDITIONALLY, THIS DECISION CALLS INTO QUESTION THE RIGHT
OF ONE NATION TO IMPOSE A TAX ON ANOTHER NATION ACTING
COLLECTIVELY ON BEHALF OF ITS PERSONNEL OR AS REPRESENTED
JOINTLY IN THE NATO COUNCIL.

WE ARE ALSO AWARE THAT VARIOUS OTHER SIMILAR TYPES OF
TAXES ARE UNDER CONSIDERATION BY LOCAL AUTHORITIES. IF
THIS LOCAL COURT RULING IS ALLOWED TO STAND, THE DOOR WILL
BE OPENED TO THE IMPOSITION OF A VARIETY OF OTHER TAXES ON
AN ARBITRARY BASIS IN VIOLATION OF EXISTING PROTOCOL AND
AGREEMENTS.

UNDER ARTICLE XV OF THE HEADQUARTERS PROTOCOL I HAVE REG-
ISTERED OFFICIAL DISAGREEMENT WITH THIS MAASTRICHT COURT
DECISION WITH THE NETHERLANDS GOVERNMENT. HOWEVER, SINCE
THIS APPEARS TO BE THE GOVERNMENT STANDPOINT AS WELL WITH
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 062703

RESPECT TO THIS WATER POLLUTION TAX, IT IS UNLIKELY THAT
THIS OFFICIAL PROTEST WILL RESULT IN A REVERSAL OF THE
DECISION. THE NEXT STEP THEN WILL BE REFERRAL OF THIS
MATTER TO THE NORTH ATLANTIC COUNCIL.

THE SECRETARY GENERAL IS ALREADY AWARE OF THE SITUATION
AND THE MILITARY BUDGET COMMITTEE IS ACTIVELY CONSIDERING
THE EFFECTS OF THIS WATER POLLUTION TAX AGAINST NATO IN-
STALLATIONS IN THE NETHERLANDS. IT SEEMS THAT WHAT IS NOW
REQUIRED IS INDIVIDUAL BUT CONCERTED ACTION ON THE PART
OF THE NATIONAL AUTHORITIES TO RESOLVE THIS MATTER OF
PRINCIPLE AS QUICKLY AS POSSIBLE.

BECAUSE OF THE LONG TERM ADVERSE EFFECTS OF INCREASED
COSTS ON YOUR INDIVIDUAL DEFENCE BUDGETS I AM THEREFORE
URGENTLY APPEALING DIRECTLY TO YOU AS WELL AS THE OTHER
DEFENCE CHIEFS OF MODS REPRESENTED IN THE CENTRAL REGION
TO MAKE STRONG REPRESENTATIONS THROUGH YOUR NATIONAL AUTH-
ORITIES TO HAVE THIS MATTER RESOLVED BY BILATERAL NEGOTI-
ATIONS AT THE HIGHEST POSSIBLE LEVEL IN ACCORDANCE WITH
ARTICLE XVI OF REFERENCE C. AS WELL AS TO PAVE THE WAY FOR
FAVOURABLE NATO COUNCIL CONSIDERATION.

REFERENCES: A. AGREEMENT BETWEEN THE PARTIES TO THE
NORTH ATLANTIC TREATY REGARDING THE STATUS OF THEIR FORCES
(LONDON 19 JUNE 1951)

B. AGREEMENT ON THE STATUS OF THE NORTH ATLANTIC TREATY
ORGANIZATION, NATIONAL REPRESENTATIVES AND INTERNATIONAL
STAFF (OTTAWA CONVENTION 1951)

C. PROTOCOL ON THE STATUS OF INTERNATIONAL MILITARY HEAD-
QUARTERS SET UP PURSUANT TO THE NORTH ATLANTIC TREATY
(PARIS, 28 AUGUST 1952)

D. SUPPLEMENTARY AGREEMENT BETWEEN THE KINGDOM OF THE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 STATE 062703

NETHERLANDS AND THE SUPREME HEADQUARTERS ALLIED POWERS
EUROPE ON THE SPECIAL CONDITIONS APPLICABLE TO THE ES-
TABLISHMENT AND OPERATION OF INTERNATIONAL MILITARY HEAD-
QUARTERS WITHIN THE EUROPEAN TERRITORY OF THE KINGDOM OF
THE NETHERLANDS (PARIS, 25 MAY 1964) AND SUBSEQUENT EX-
CHANGES OF NOTES AMPLIFYING THE PROTOCOL. END QUOTE.
VANCE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TEXT, LAW, WATER POLLUTION, ARMED FORCES, DIPLOMATIC COMMUNICATIONS, TAXES
Control Number: n/a
Copy: SINGLE
Sent Date: 21-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE062703
Document Source: CORE
Document Unique ID: 00
Drafter: JWKIMBALL:OASD/ISA/FMRA: TKEENAN:ML
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770097-0675
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770338/aaaabgno.tel
Line Count: 188
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: fc9bd4b4-c288-dd11-92da-001cc4696bcc
Office: ORIGIN PM
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 08-Dec-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3042652
Secure: OPEN
Status: NATIVE
Subject: NETHERLANDS WATER POLLUTION TAXES ON US FORCES
TAGS: MARR, NL, US, NATO
To: THE HAGUE NATO BRUSSELS
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/fc9bd4b4-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009